

## REMARKS

In the Final Office Action dated January 11, 2005, the Examiner rejected all claims based primarily on a patent to Krajcir (U.S. 6,389,715). The Examiner states that the Krajcir reference discloses all the limitations of the claims including a toe engaging apparatus comprising a panel attached to an insole located within a liner where the toe engaging apparatus is attached directly to the interior of the shoe and the insole and engages a forward edge of at least one of the user's toes, the panel being spaced from the toebox at a mid portion. The Examiner is referring to the Krajcir safety footwear that includes an air space in an upper portion of the toebox, the air space helping to absorb impact forces. Strong materials are situated on either side of the air space in order to provide force-receiving plates for toe protection.

In contrast, the present invention is a panel of material that is in continual contact with the toe or toes of the user to provide proprioception to the user within the boot or shoe. The panel mid portion is positioned away from the toebox interior and is not an integral part of the toebox. It is positioned to contact the forward upper edge of the user's toe or toes.

To clarify the arrangement of the present invention and further define over the references cited, applicant has amended the independent claims to specify that the panel continually engages an upper forward edge of at least one of the wearer's toes. Applicant has also clarified that the panel is spaced from a forward and upper portion of the toebox at a panel mid portion. All of these limitations are in sharp contrast to the disclosure of Krajcir. The Krajcir toebox is not meant to continually contact the toes of the user, but to keep external impact forces from contacting and smashing the toes of the user. Furthermore, the manner in which the Examiner has viewed the "panel" of Krajcir does not place it at a forward and upper portion of the toebox, but rather simply above the toes, behind the forward portion of the toebox.

The panel, which continually engages an upper forward portion of the user's toes, is not taught or suggested by Krajcir or a combination of Krajcir with any of the other references. Krajcir, as mentioned, is directed toward safety footwear with an impact resistant toebox. The

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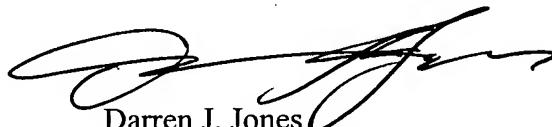
Krajcir reference, either alone or in combination with other references, does not approach the same problem or define the same solution.

## CONCLUSION

Based on the clarifying amendments made to all independent claims currently pending, applicant submits that the application is in condition for allowance and respectfully requests the Examiner to issue a Notice of Allowance at his earliest convenience.

Respectfully submitted,

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## MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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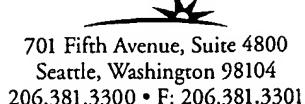
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